



PUBLIC NOTICE

Federal Communications Commission
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DA 11-103

Released: January 21, 2011

MEDIA BUREAU ACTION

COMMENT DATES ESTABLISHED FOR JOINT PETITION FOR DECLARATORY RULING THAT THE *LIBERTY ORDER* DOES NOT AUTHORIZE THIRD-PARTY SUBPOENAS

MB Docket No. 11-14

Comment Date: February 7, 2011
Reply Comment Date: February 17, 2011

On January 12, 2011, Comcast Corporation, DIRECTV, Inc., and News Corporation (collectively, “Petitioners”) filed a joint petition¹ requesting that the Commission issue a declaratory ruling regarding arbitration-related conditions of certain Commission merger orders.² Petitioners ask the Commission to rule that (i) the Federal Arbitration Act (“FAA”) and state laws do not govern arbitrations brought pursuant to Commission merger orders, including the *Liberty Order*; (ii) an arbitrator appointed under these merger orders has no jurisdiction or authority to compel third-party participation in the arbitration proceeding, through discovery, pre-hearing or hearing testimony, or otherwise; and (iii) the arbitration conditions in these merger orders authorize only limited party discovery and do not authorize third-party subpoenas to or discovery of Petitioners. Petitioners contend that the requested ruling is necessary because of an arbitrator’s recent decision to issue subpoenas to Petitioners requiring them to produce highly confidential documents and other information and to present substantive testimony about those materials.³ Petitioners also express concern that arbitrators will take similar actions in other proceedings brought pursuant to current or future Commission merger orders that include arbitration conditions.

This proceeding will be treated as “permit but disclose” for purposes of the Commission’s *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. As a result of the permit-but-disclose status of this

¹ See Comcast Corporation et al., Joint Petition for Declaratory Ruling (filed January 12, 2011).

² See *Applications for Authority to Transfer Control, News Corporation and The DIRECTV Group, Inc., Transferors, and Liberty Media Corporation, Transferee*, Memorandum Opinion and Order, 23 FCC Rcd 3265 (2008) (“*Liberty Order*”); *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation, Assignors to Time Warner Cable, Inc., Assignees, et al.*, Memorandum Opinion and Order, 21 FCC Rcd 8203 (2006) (“*Adelphia Order*”).

³ See *Armstrong Utilities, Inc. v. DIRECTV Sports Net Pittsburgh, LLC*, AAA Case No. 55-472-E-00247-10.

proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.⁴

Interested parties may file comments on or before **February 7, 2011** and reply comments on or before **February 17, 2011**. All filings must reference **MB Docket No. 11-14**. Comments sent via e-mail to the Commission will be considered informal and will not be part of the official record. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.⁵

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
 - For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and the applicable docket number: **MB Docket No. 11-14**. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message: "get form". A sample form and instructions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class mail, Express Mail, and Priority Mail must be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

Documents in **MB Docket No. 11-14** are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th St., S.W., Room CY-A257, Washington, DC 20554, telephone (202) 418-0270. They may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., telephone (202) 488-5300, facsimile (202) 488-5563, or via email at fcc@bcpiweb.com.

⁴ 47 C.F.R. § 1.1206.

⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd 11322, 11326, ¶ 8 (1998).

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

For further information, contact David Konczal, (202) 418-2228. Press inquiries should be directed to Janice Wise, (202) 418-8165.

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